



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUN 13 2019

Scott M. Hubay, Esq., Treasurer
Scholten4Iowa Campaign Committee
P.O. Box 3531
Sioux City, IA 51102

RE: MUR 7552

Dear Mr. Hubay:

On December 4, 2018, the Federal Election Commission ("Commission") notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On June 6, 2019, based upon the information contained in the complaint and information provided by respondents, the Commission decided to dismiss allegations that Scholten4Iowa Campaign Committee and Scott Hubay in his official capacity as treasurer violated provisions of the Act. The Commission then closed its file in this matter. A copy of the General Counsel's Report, which more fully explains the basis for the Commission's decision, is enclosed.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). If you have any questions, please contact Kristina Portner, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson
Acting General Counsel

A handwritten signature in black ink, appearing to read "Jeff S. Jordan".

BY: Jeff S. Jordan
Assistant General Counsel

Enclosure:
General Counsel's Report

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BEFORE THE FEDERAL ELECTION COMMISSION

ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

MUR: 7552

Respondents: Scholten4Iowa Campaign
Committee and Scott Hubay, as
Treasurer ("Committee"),¹
Midwest Assistance Program,
Inc. ("MAP")

Complaint Receipt Date: December 3, 2018

Response Date: February 5, 2018²

EPS Rating:

Alleged Statutory

52 U.S.C. §§ 30101(17); 30104(c)

Regulatory Violations:

11 C.F.R. §§ 100.16; 100.22; 109.10; 109.21; 110.11(b)

The Complaint alleges that the Committee and MAP coordinated communications because they ran identical newspaper ads that, among other things, read "Vote Scholten for Congress Tuesday, November 6."³ In particular, the Complaint alleges that MAP paid \$1,226.52 to run the ads in the *Sioux Center Shopper*, the *Sioux Center News*, and the *N'West Iowa Review* starting on the same day that the Committee ran the advertisement in the *Orange City Ad-Visor*.⁴ In addition, the Complaint alleges that MAP failed to file independent expenditure reports for the advertisements.⁵ The Committee denies that there was any communication with MAP concerning the ads, which, except for the disclaimer, are identical.⁶

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and

¹ James Scholten was a 2018 candidate for the U.S. House of Representatives in Iowa's Fourth District, and Scholten4Iowa Campaign Committee was his principal campaign committee. Scholten lost the general election.

² Midwest Assistance Program did not respond to the Complaint and is not a registered federal political committee.

³ Compl. at 1, Ex. 1 (Dec. 3, 2018).

⁴ *Id.* The disclaimers on the ads run by MAP appear to be deficient in that they do not contain all of the information required under Commission regulations. See 11 C.F.R. § 110.11(b).

⁵ *Id.*

⁶ Scholten4Iowa Campaign Committee Resp. at 1 (Feb. 5, 2019).

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assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating and the relatively modest cost of the advertisements, we recommend that the Commission dismiss the Complaint consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file and send the appropriate letters.

Lisa J. Stevenson
Acting General Counsel

Charles Kitcher
Acting Associate General Counsel

5.24.19
Date

BY: Stephen Gura
Stephen Gura
Deputy Associate General Counsel

Jeff S. Jordan
Jeff S. Jordan
Assistant General Counsel

Kristina M. Portner
Kristina M. Portner
Attorney